

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June 1998

Before

THE HON'BLE MR.JUSTICE CHANDRASHEKARAI AH

W.P.No:28157/97

Between:

Sri.M.Madaiah, s/o lte Mallaiah,
major, N.K.S.Extension,
Malavalli town, Malavalli. ...Petitioner;

(By Sri.K.V.Narasimhan)

And:

1. State of Karnataka,
by its Secretary, Department
of Municipal Administration
M.S.Building, Dr.Ambedkar Veedhi,
Bangalore-1.

2. Town Municipal Council,
Malavalli Town, Mandya
District by its Chief Officer.

3. Deputy Commissioner,
Mandya District, Mandya. ... Respondents;

(Sri.K.Nagaraja, HCGP.,)

Writ Petition is filed under Arts.226 and 227 of the Constitution praying to quash the notice dated 11-12-96 (Annexure-A) issued by the 3rd and the order dated 21-7-1997 passed by the 2nd respondent.

This petition coming on for preliminary hearing in B group this day the Court made the following:-

WP.28157.97

O R D E R

18-6-1998

The 2nd respondent Municipal Council issued a notice to the petitioner that no licence for construction of the compound will be granted in his favour on the ground that the said land is required for the purpose of formation of road. This notice is under challenge in this petition. It is not the case of the Town Municipal Council that the land on which the petitioner intends to put up the compound does not belong to him. If that is the case, the 2nd respondent cannot reject the application filed for licence on the ground that the said land is required for the purpose of formation of road. If at all if the land is required for the formation of the road, it is open for the Municipality to move the Government for acquisition of the land. In the absence of any such acquisition as stated earlier, it is not appropriate for the Town Municipal Council to reject the application for grant of licence. Therefore, the said reason given by the Town Municipal Council is not correct.

2. The petitioner has not produced any material to show that he has obtained the licence to put up the compound. Therefore, the Town Municipal Council was right in directing the petitioner not to proceed

with the construction of the compound and also intimating the petitioner to remove the construction if any.

3. Accordingly, writ petition is disposed of with a direction to the 2nd respondent to consider the application of the petitioner to grant the licence after due notice to the petitioner as expeditiously as possible.

Sd/-
JUDGE

Hsf.

